

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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MICHAEL DENT,

Petitioner,

- against -

MICHAEL A. ZENK,

Respondent.

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GERSHON, United States District Judge:

On December 30, 2005, the court issued an order denying petitioner's request for a writ of habeas corpus, pursuant to 28 U.S.C. § 2241, as to all claims. The court also denied a certificate of appealability, after finding that petitioner had failed to make a substantial showing of the denial of a constitutional right.

However, after further consideration, the court has determined that a certificate of appealability is not required for cases brought pursuant to 28 U.S.C. § 2241. *See* 28 U.S.C. § 2253 (c); *Drax v. Reno*, 338 F.3d 98, 106 n.12 (2d Cir. 2003). Therefore, the court vacates its December 30, 2005 order to the extent that it purports to deny a certificate of appealability, as it is not required for petitioner to exercise his right of appeal. Accordingly, the court amends the order to reflect that it declines to grant or deny a certificate of appealability.

Petitioner filed a notice of appeal with the Court of Appeals on January 13, 2006, and has requested leave of this court to proceed in forma pauperis. Petitioner's request is granted for the

ORDER

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purpose of pursuing his appeal.

SO ORDERED.

/s/ *Nina Gershon*
NINA GERSHON
United States District Judge

Dated: February 1, 2006
Brooklyn, New York